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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,672	09/26/2001	Steven M. Ziola	08-000410US	2887

22798            7590            09/16/2003

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[REDACTED] EXAMINER

CHAPMAN JR, JOHN E

[REDACTED] ART UNIT      [REDACTED] PAPER NUMBER

2856            12

DATE MAILED: 09/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/965,672	ZIOLA ET AL.
	Examiner	Art Unit
	John E Chapman	2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 03 September 2003.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-44 is/are pending in the application.
  - 4a) Of the above claim(s) 27-44 is/are withdrawn from consideration.
- 5) Claim(s) 1-26 is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____                                     |

### **DETAILED ACTION**

1. The copy, filed on September 3, 2003, of a response to the Office action of February 6, 2003 is accepted in view of the postcard receipt indicating that a response was received in the USPTO on June 10, 2003. The original response to the Office action is not of record in the application file and cannot be located. However, it is concluded that the response was timely received in the USPTO but lost after receipt thereof.

2. Claims 1-26 are allowed.

3. This application is in condition for allowance except for the following formal matters:  
The disclosure on page 6, line 5, to page 7, line 22, is directed to the background of the invention and not to a detailed description of the invention. Accordingly, it should be moved to the appropriate section.

The disclosure on page 8, line 1 to page 10, line 27, should follow (or be incorporated into) the detailed description of the invention on page 10, line 29 to page 12, line 26.

Claims 27-44, drawn to a nonelected invention, should be cancelled.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

4. Applicant's arguments filed September 3, 2003 have been fully considered but they are not persuasive. Applicant argues that the section comprising page 6, line 5, to page 7, line 22, is not a background section but describes aspects of the invention. Applicant fails, however, to identify any detailed description of the invention to be found in the section. Furthermore, to the extent that the section describes aspects of the invention in relation to the prior art, the description should more appropriately appear in the "Summary of the Invention." See MPEP § 608.01(d).

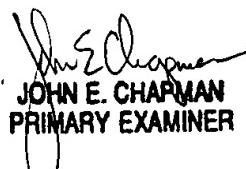
Applicant argues that the section starting at page 8, line 1, comprises a general description of the invention, whereas the section beginning on page 10, line 29, comprises a specific description. However, it is quite evident that the self centering cap 22 in Fig. 3 is a more detailed description of the self centering cap 22 in Fig. 1. Note also that it logically makes more sense to describe Fig. 1 before describing Fig. 3.

The preferred layout and content for patents applications serve a useful purpose for examiners and members of the public who desire to quickly locate the detailed description of the invention. Accordingly, appropriate rearrangement of the specification is required.

5. The request to correct the inventorship of this nonprovisional application under 37 CFR 1.48(a) is deficient because: (a) an oath or declaration by each actual inventor or inventors listing the entire inventive entity has not been submitted; (b) the statement that the inventorship error occurred without deceptive intent is not signed by the person being added as an inventor; and (c) it lacks the written consent of any assignee of one of the originally named inventors.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Chapman whose telephone number is (703) 305-4920.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

  
JOHN E. CHAPMAN  
PRIMARY EXAMINER

jec  
September 12, 2003